

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**
Alexandria Division

BRIAN C. DAVISON,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.: 1:16-cv-932
)	(JCC/IDD)
)	
LOUDOUN COUNTY BOARD OF)	
SUPERVISORS, et al.,)	
)	
Defendants.)	

**DEFENDANTS LOUDOUN COUNTY BOARD OF SUPERVISORS, LEO ROGERS,
PHYLLIS RANDALL, TONY BUFFINGTON, RON MEYER, AND GEARY HIGGINS’
MOTION TO DISMISS FILED PURSUANT TO FED R. CIV. P. 12(b)(1)(6) and (d)**

COME NOW the defendants, Loudoun County Board of Supervisors (“the Board”), Leo Rogers (“Rogers”), Phyllis Randall (“Randall”), Tony Buffington (“Buffington”), Ron Meyer (“Meyer”) and Geary Higgins (“Higgins”), by counsel, pursuant to Fed. R. Civ. P. 12(b)(1)(6) and (d), and move this court for dismissal with prejudice of all counts of the Complaint on the following grounds:

1. The Complaint fails to state a claim or cause of action for which relief may be granted against any of the defendants for alleged violation of First or Fourteenth Amendment Constitutional rights, fails to assert substantial federal claims, and the individual defendants are entitled to qualified immunity.

2. The Complaint fails to state a claim or cause of action based on any theory of recovery for which relief may be granted against defendants Randall and Rogers in that the pleaded facts are insufficient to support any recognized claims or causes of action against them.

3. The court is without subject matter jurisdiction or proper venue to hear any claims for alleged violation of the Virginia Freedom of Information Act (“FOIA”), Virginia Code §§ 2.2-3700, *et seq.*

WHEREFORE, the defendants respectfully request that, for all of the foregoing reasons, and based on the arguments set forth in defendants’ accompanying memorandum as well as any additional reasons that may be argued at hearing of this matter, the court grant their Motion to Dismiss filed pursuant to Fed. R. Civ. P. 12(b)(1), (6) and (d) and dismiss this case and all claims with prejudice. Pursuant to local rule 11(b) counsel will arrange for scheduling of a hearing in this matter. The plaintiff herein is *pro se* and pursuant to and consistent with the requirements of *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the following warning is provided:

1. The plaintiff is entitled to file a response opposing the defendants’ Motion to Dismiss and any such response must be filed within 20 days or as ordered by the court; and

2. The court could dismiss this action on the basis of the defendants’ papers if the plaintiff does not file a response;

3. The plaintiff must identify all facts stated by the defendants with which he disagrees and must set forth the plaintiff’s version of the facts by offering affidavits (written statements signed before a Notary Public and under oath) or by filing sworn statements (bearing a certificate that it is signed under penalty of perjury); and

4. The plaintiff is entitled to file a legal brief in opposition to the one filed by the defendants.

**LOUDOUN COUNTY BOARD OF SUPERVISORS, LEO ROGERS,
PHYLLIS RANDALL, TONY BUFFINGTON, RON MEYER, AND
GEARY HIGGINS**

By Counsel

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of August, 2016, I electronically filed the foregoing pleading with the Clerk of Court using the CM/ECF system, and emailed and mailed copy to the plaintiff who is pro se, along with Roseboro Notice included herein, to the following:

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/s/

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